



Examiners' Restriction Requirement as stated; and

3. Applicants request that claims 14-17 be examined with the claims constituting Group I (Nos. 1-13 and 19) to the extent of the provisionally elected invention.

REMARKS

It is applicants' view and position that claims 1-19 originally submitted represent alternative definitions of a single, but broadly recited, invention; that these claims are directly linked to one another in a cause and effect relationship; and that the totality of claims 1-19 present a unitary subject matter as a whole rather than multiple or distinct innovations. Applicants' view and position is supported by the following evidence.

The DNA segment, expression vector, transfected cell, and particular methods recited by claims 1-13 and 19 are employed in-situ and for the intended purposes and goals set forth by claims 14-17 and 18. The Examiners' fractionation and separation of in-situ use circumstances between in-vitro applications and in-vivo situations is an arbitrary choice at best; and in essence is merely a distinction without a difference as applied to claims 1-13 and 19 respectively. Clearly claims 14-17 each reiterate and incorporate many parts of the language and elements to be found within claims 1-13 and 19; and are directed to stimulation of angiogenesis in-situ. Thus all of these claims together form a unitary whole and define a single inventive concept.

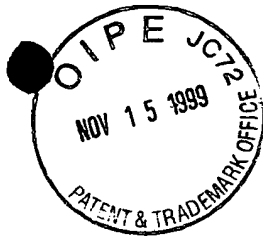
RECEIVED
TECHNICAL CENTER 1800/2906
99 NOV 17 PM 2:06



To then restrict claim 18 as a different invention solely because it specifies an in-vivo usage is a meaningless effort and creates merely an additional burden of effort which is a duplication in substance of the prior art search and merit evaluation to be performed for all the other claims originally submitted.

The Examiners will note and appreciate that all of claims 1-19 are the result of a single innovative effort and are merely the individual parts of one invention defined in their range of applications and use circumstances. This relationship is one long recognised and accepted by the scientific community; and there is no serious doubt or question that the definitions recited by claim 1-13 and 19 include in their scope the subsets and alternative definitions recited by claim 14-17 and 18. Applicants believe that the Examiners are mistaken in their stated interpretation and view that claim 18 is meaningfully different and distinct from the other claims originally submitted.

Applicants therefore respectfully submit and maintain that the Examiners have misconstrued the standards and and misapplied the facts needed for a restriction requirement of originally submitted claims 1-19. Applicant affirms that claims 1-19 are intimately and directly related in sum and substance; that each of claims 1-19 recites similar definitions which differ primarily in style of definition and not in kind or essence; and that all the originally presented claims constitute a single invention which has been defined in the alternative to preserve the true



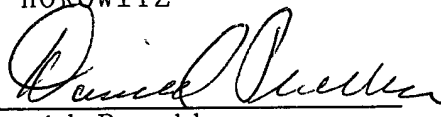
scope of the invention. Accordingly, applicants affirm that there is no proper or compelling reason for requiring a Restriction and division of the originally submitted claims.

For all the reasons stated herein , applicants respectfully request that the Examiners reconsider their position and withdraw the present Restriction Requirement completely. The Examiners are also invited to call applicants' undersigned attorney should they feel that such a telephone call would further the prosecution of the present application.

Respectfully submitted,

MICHAEL SIMONS
RUDIGER VOLK
ARIE HOROWITZ

Date: Nov. 10, 1999
P.O. Box 5387
Magnolia, Massachusetts 01930
Tel.: (978) 525-3794

By: 
David Prashker
Reg. No. 29,693
Attorney for applicants